

# INTERNAL GUIDANCE

## ILLEGAL OPEN BURNING/DUMPING COMPLAINT RESPONSE GUIDANCE

DNR Publication WA-610-05-REV



### Air Management and Waste Management Programs

Effective February 15, 2005

#### **Introduction/Background**

Open burning is a cause of many citizen complaints. Due to budget and staff reductions in the Air Management and the Waste Management programs, it has become necessary to reduce and better target some of our work activities. One such activity is open burning/dumping complaint investigations.

Although responding to citizen complaints remain a high priority for the Air and Waste programs, there is a need to reduce our workload. The Department needs more efficient enforcement mechanisms for illegal open burning and we need citizen and legislative support to gain the better enforcement tools - i.e. citation authority. Therefore we need to be responsive and we need to be able to document the extent of the open burning problem while at the same time being more efficient with our workload.

This guidance is intended to provide direction and consistency to Air and Waste staff on balancing the need to respond to citizen complaints with the need to reduce workload.

#### **General Guidance – What’s Our Expectation?**

When a citizen complaint regarding illegal open burning is received, the general expectation is that the Air or Waste staff person initially receiving the complaint should do the follow-through directly where possible.

- The staff person should respond to the complainant and should make a follow-up contact with the offending party, where identified.
- Site visits and individually written letters should be reserved for only the high priority cases (like repeat offenders and especially egregious burning events).

Instead of site visits or individually written letters, Air and Waste staff should:

- When ever possible, respond to telephone complaints and inquiries over the telephone and document complaints in either the Air or Waste electronic tracking systems.
- When ever possible, respond to written complaints and inquiries by a telephone call or an e-mail note, and document complaints in either the Air or Waste electronic tracking systems.
- When ever possible, contact the alleged offending party (by a telephone call or an e-mail note) where the offending party is identified.
- Use of LONs or NOV's should be reserved high priority complaints.
- Our responses should be as efficient as possible referring parties to educational materials that are on the Department web site or that can be mailed.

- In cases where a citizen complains and the material being burned isn't illegal (e.g. leaf burning), staff should discuss the role of local government in addressing the problem through adopting a local ordinance. The model ordinance that the Department has made available is on our WDNR web site.
- Always record citizen complaints on open burning/dumping in either the Air or Waste electronic tracking systems. Waste Management staff should enter a record of open burning/dumping citizen complaints and follow-up into the FIST data system. Air Management staff should either complete the Complaint / Inventory Report (Form 4500-79) for open burning complaints or provide equivalent hardcopy information to the Bureau of Air Management for entry into the AM data system. When using Form 4500-79, Air Management staff should use "Nature of Complaint" in addition to any other appropriate boxes, check "Other" and write in "Open Burning." The lead program is responsible for adding the information into the programs electronic system and double entry is to be avoided.

### **Routing of Incoming Complaints:**

For front-line clerical staff taking citizen calls - - ask the following questions of the caller and route the complaint as follows:

Pollution or fire control

- Is this an emergency situation related to a wild fire? (If a wild fire or emergency, use emergency procedures and refer to Fire Ranger)
- Is your concern or complaint primarily related fire prevention? (If yes, refer to Forestry staff)
- Is your concern or complaint primarily related to pollution? (If yes, refer to Air or Waste staff)

For technical staff receiving citizen complaints: The Air or Waste staff person initially receiving the complaint should do the follow-through directly where possible - - whether the initial DNR recipient is in the Forestry, Air or Waste programs.

### **Training Requirements**

Air Management and Waste Management supervisors need to assure that staff is adequately trained on open burning/dumping complaint investigation prior to doing complaint follow up. That training (which experienced staff may already have had) should include the following:

- Laws and rules pertaining to open burning/dumping, burning of buildings and trespass.
- Procedures for follow up letters and correspondence (see Appendix "A").
- Procedures for taking enforcement actions.
- Procedures for documenting and tracking complaints using the electronic tracking systems (FIST in WA and the paper or electronic Form 4500-79 in AM) including initial contact, updates, and close out.
- Environmental Enforcement training course and handbook.

### **Work Procedures (Effective February 15, 2005)**

The following work procedures should be followed. Once a complaint is received, staff needs to evaluate the public health and environmental risks, history of the complaints for that site / repeat complaints, and pick a follow-up approach (send information, call, etc.). All illegal open burning / dumping complaints need to be documented by the Air and Waste Management Program responding to the complaint.

- WA Staff - Enter complaint data into FIST within 7 days of receipt. Follow-up to the complaint also needs to be documented and entered into FIST within 7 days of the follow-up occurring.
- AM Staff - Complaint documentation and response materials (Form 4500-79, copy of LON's, etc.) should be sent to the Central Office (Linda Lund / AM/7) within 7 days for entry into the Air

Management complaint database. Either paper or electronic copies are acceptable. All materials related to a single complaint should be routed in one package / e-mail to avoid potential duplicate entry.

**Complaints Received From Other WDNR Programs**

Open burning/dumping complaints that are forwarded to the Air or Waste Programs from other Department programs (Forestry, Law Enforcement, etc.) need to be handled in the same fashion as those that are directly received from the public.

## Appendix A

### Example Letter

Dear [\_\_\_\_\_]:

It has come to my attention that you may be burning various solid wastes on your property. I would like to take the opportunity to explain to you a few issues with regard to burning waste.

Wisconsin Administrative Rules for Solid Waste and Air Pollution prohibit open burning of most waste materials. There are a few limited exceptions, but even those limited exceptions may be prohibited by local ordinances. [Refer specifically to s. NR 429.04 and to s. NR 502.11, Wisconsin Administrative Code.]

Enclosed with this [e-mail or letter] are two fact sheets. Open burning a significant problem in Wisconsin. It is the largest cause of citizen air pollution complaints in Wisconsin and the largest source of dioxin emissions in our state. Open burning can also be a direct health hazard to those engaging in the burning and to those in the surrounding area. Contaminants can include heavy metals, particulates, carbon and sulfur dioxides, and hydrocarbons. The contaminants can be both in the smoke and in the ash that remains after burning.

I would also like to let you know that [persons or businesses] that violate the Administrative Code are subject to enforcement proceedings. The penalties are serious and include the possibility of assessing penalties that range from \$10 to \$25,000 per violation per day.

The Department of Natural Resources is not pursuing enforcement action for the alleged violations in this case at this time. Rather, I thought it was important that you be informed of the Wisconsin Administrative Rule and where investigations of illegal activity can lead. What you must understand is that if illegal open burning at your location is verified to occur in the future, the Department will assume you do so with full knowledge of your legal obligations and the potential consequences of your burning activity.

If you wish to talk about the matter, just give me a call at telephone number [(XXX) XXX-XXXX]. You can also email me at ["first name.last name@dnr.state.wi.us"]. If you have specific solid waste concerns, I would recommend you contact ["name of appropriate person"], solid waste specialist, in ["City"]. ["Person name"] telephone number is [(XXX) XXX-XXXX]. If you have specific air concerns, I would recommend you contact ["name of appropriate person"], air management specialist, in ["City"]. ["Person name"] telephone number is [(XXX) XXX-XXXX].

Sincerely,

## **Appendix B / Reference Materials**

### **Burn Barrels: Unhealthy, Unnecessary, Unneighborly and Usually Illegal**

#### **Unhealthy**

Smoke from burning garbage contains toxic compounds, often including dioxin, furans and other carcinogens. The ash, which some folks place on their garden, may contain heavy metals such as lead and cadmium.

#### **Unnecessary**

If you have a burn barrel, take a look at what you're burning. Most paper and cardboard can and should be recycled. Today, waste collection service is available nearly everywhere, and the collection businesses offer wheeled carts and recycling containers for convenient, economical, end-of-driveway service.

#### **Unneighborly**

You probably don't enjoy the stink of burning garbage, and neither does your neighbor. Think about how your decision to burn garbage affects others.

#### **Usually Used Illegally**

Open burning of household solid wastes, whether or not in a burn barrel, is prohibited by law, with limited exceptions. This prohibition includes all plastic materials, kitchen wastes, dirty or wet paper wastes, treated or painted wood, furniture, and demolition material - or any other material that creates a nuisance. The exceptions (for households only - not businesses) include (if not prohibited by local ordinance) lawn and garden debris, small quantities of clean, untreated, unpainted wood and clean paper waste that is not recyclable. Outdoor fires for cooking, or for "warming up" are okay and do not require any special approvals unless environmental conditions pose a great risk for forest fires.

## **Wisconsin Statewide Law on Open Burning: Which Materials Are Legal To Burn?**

**Which of these household materials can be legally burned in a burn barrel or an open fire on the same property where generated?**

State law does not prohibit burning small dry quantities of the household materials with a ✓ mark, if they are burned on the same property where generated. Local ordinances may be more restrictive; check with your local municipality before burning. (The number listed after the materials below refers to the legal explanations of why the item may or may not be burned.)

✓ Plastic Milk Jug **1,5**  
✓ Leaves (dry) **8**  
Treated Lumber **3**  
Newspaper **5**  
Insulated Electrical Wire **1**  
Rubber Hose **1**  
Tires **1**  
✓ Tree Branches **8,9**  
Plastic Garbage Bags **1**  
Waste Oil **4**  
Asphalt Shingles **1**  
Painted Siding **3**  
✓ Clean Dry Firewood **9**  
Nylon Upholstery Fabric **1,2**

Corrugated Cardboard **5**  
Asphalt Sealant **1**  
Plastic Food Wrap **1**  
Plywood **6**  
Plastic Pipe **1**  
Food Waste / Garbage **4**  
Wooden Furniture **3**  
Plastic siding **1**  
✓ Aluminum Beer Cans **5**  
✓ Pine Needles **8**  
Nylon Carpet **1,2**  
Polystyrene Plates **1,2**  
Tar Paper **1**  
Polystyrene Foam  
Packaging **1,2**

Urethane Foam Pad **1,2**  
Plastic Soda Bottles **1,2**  
Magazines / Catalogues **5**  
✓ Waste Mail **7**  
OSB / Composite Board **6**  
Plastic Weed Barrier **1**  
Water Softener Salt Bag **1,2**  
✓ Paper Plates / Cups **10**  
✓ Napkins / Paper Towel **10**  
✓ Paper Grocery Bags **7**  
Plastic Vapor Barrier **1**  
Plastic Toys **1**  
Old Building **11**  
✓ Untreated Unpainted Lumber **9**

### Explanations & Alternatives:



1. All plastic, rubber and asphalt materials are prohibited from open burning under state law.
2. This synthetic material is “plastic” and may not be burned.
3. Wood that is painted or chemically treated may not be burned under state law.
4. These materials are specifically prohibited from open burning under state law.
5. These materials must be recycled under state and local recycling laws. They cannot be burned. (It is legal to use a small amount of paper or cardboard material to kindle a fire.)
6. These materials contain resins and glues making them unsuitable for burning. They are not “dry unpainted, untreated wood” as referenced and exempted in the law.
7. Even though state law allows burning after removing any plastic, many local recycling programs cover these materials. Recycling is a better alternative. If recycling is not an option, proper disposal is better than burning.
8. Even though state law allows burning, composting and/or beneficial use of this material is a better alternative.
9. Clean dry unpainted untreated wood is legal to burn, but if it isn’t going to be beneficially used for heating, consider options other than burning.
10. This waste paper material is not recyclable. Proper disposal is a better option than burning. Wet paper or paper mixed with plastic can’t be burned.
11. Individuals or businesses may not burn a building. The only exception is that a building may be burned only by a fire department for training purposes after notification to DNR and removal of illegal materials.

### Remember:



- All materials emit **pollutants** when burned. Generally, the materials that cause the most toxic emissions are those that are prohibited from burning under state law. Try to avoid burning any waste material.
- If prohibited and allowed materials are **mixed**, they cannot be burned. Any prohibited materials must be removed before the allowed materials are burned.
- Check **local ordinances**! A local municipality may ban the burning of any material even if statewide regulations allow it.
- Check for **burning permits**. Even if the material is legal to burn, the DNR or the local municipality often requires a burning permit. During periods of high fire hazard, burning may be prohibited.
- Consider other **alternatives**. Even if the material is legal to burn, more environmentally sound alternatives are available.
- This information only applies to small quantities of **household** waste being burned on the same property where generated. The regulations do not allow **businesses** to burn the same materials that a household may. If in question, consult the regulations.

### Additional Information:



- For additional information, contact your DNR service center or log onto the DNR Open Burning Web site: <http://dnr.wi.gov/org/caer/ce/ob/>.
- For additional information on asbestos, log onto the Asbestos Web site: <http://dnr.wi.gov/org/aw/air/reg/asbestos>
- Does your municipality have an open burning ordinance? Check with your local clerk or fire chief.
- For additional information on burning permits log onto the DNR Forest Fire Prevention Web site: <http://dnr.wi.gov/org/land/forestry/Fire/index.htm>.
- The open burning regulations are in ch. NR 429 and s. NR 502.11, Wis. Adm. Code.

## **Appendix C - Telephone Interviewing**

### **Purpose**

In order to better evaluate the validity and seriousness of an alleged violation, it is important for staff to obtain detailed information from the complainant during the initial contact. This document provides general concepts and questions that staff can use during telephone interviews.

### **The basics**

- Who (name of company, individual responsible?)
- What (what is the issue, what happened, what is the substance involved?)
- When (day, time, ongoing?)
- Where (location of company, property owner, specific location of violation?)
- Why (why did they do this, motive?)
- How (how does the complainant know this?)\*

\* As the case advances you will need to ascertain how do I know this and how can I later prove these facts.

### **Explain sequence of events**

- Ask the complainant to explain what happened from start to finish
- Type of waste/substance
- Description of waste, quantity, color, odor
- Was the waste discharged to the environment?
- Person(s) involved (who is responsible for ordering the event to take place?)

### **Ask clarifying questions**

- Any one else see this, aware of the violation, willing to talk to Department staff?
- How does the complainant know this, direct knowledge or rumor?
- Why are you calling (attempt to ascertain if disgruntled employee, fired, competitor)?
- Has it happened before?
- Was this event intentional or an accident?
- Can this be viewed from the road or public place?
- Are there visible signs of the dumping, discharge?
- Is waste being brought in from off-site?

### **General guidelines**

- Limit each question to a single component
- Ask open ended questions ("Can you tell me more about" . . ."Can you explain exactly what you saw")

### **Ending the conversation**

- Summarize the information provided by complainant
- Obtain telephone number from complainant (unless anonymous)
- Ask complainant if you can call them back if you have additional questions
- Ask complainant to call back if they recall additional information
- Ask if there is anything else the complainant would like to say that might be helpful

### **Documentation**

- AM and WA programs need to record the information in their program's tracking systems as soon as possible.